

**TO: Interested Parties**  
**FR: Senate Republican Whip Jon Kyl and House Republican Whip Eric Cantor**  
**DT: March 10, 2010**  
**RE: Will the Democrats' "Go It Alone" Approach to Health Care Work?**

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If all goes according to the Democrats' latest plan, the House will pass the Senate's health care overhaul and it will be signed into law, with its "kickbacks," "back-room deals," and the Senate version of the "Cadillac" tax increase. House Democrats then hope to "fix" some—but not all—of the problems with a fast-track reconciliation bill. The Senate would take up the House-passed reconciliation bill, pass it, and send it to the president for his signature. Finally, a series of fixes outside of reconciliation might move through both the House and Senate later.

But let's be clear: House Democrats must pass the Senate's health care overhaul before the Senate will even consider "fixing" it. And, while it seems like Senate Majority Leader Harry Reid intends to take up the reconciliation package, it is far from certain that he can get it through the Senate without any changes whatsoever.

### **BEFORE HOUSE DEMOCRATS VOTE ON THE SENATE'S UNPOPULAR HEALTH CARE OVERHAUL, HERE ARE SOME IMPORTANT CONSIDERATIONS:**

#### **1) House Democrats Must First Approve The Controversial Senate Bill**

House Democrats may find comfort in focusing on a reconciliation bill that amends a small number of provisions in the Senate's health care bill, but that ignores the fact that they must first vote to approve the entire Senate bill, warts and all. And make no mistake, House Democrats will receive no cover from their controversial vote by hiding it in a convoluted House procedure. Here's what House Democrats will be voting for if they cast a YES on the Senate bill:

- Increased health spending (according to CMS, bends cost curve up, not down)
- Nearly \$500 billion in Medicare cuts
- Over \$500 billion in tax increases
- Health insurance premium hikes
- \$1 trillion bill that relies on double counting and gimmicks
- Cornhusker Kickback
- Louisiana Purchase
- Carve-outs for Florida seniors only
- Tax on health care plans (JCT says will lead to increased health care costs for consumers)
- Targeted tax on small construction firms suffering from record employment losses

#### **2) The Senate Provides No Certainty**

It is not uncommon for the House to vote for a bill, only to see the legislation languish in the Senate. That concern is magnified when such legislation is so unpopular with the American public. Recently, House Democrats voted for a controversial scheme called Cap and Trade. To this date, the Senate has not taken up the House's Cap and Trade proposal. In fact, Senator John Kerry (D-MA) has declared it all but dead.

House Democrats must trust the Senate to complete the reconciliation two-step, and put aside any memories of past slights like Cap and Trade and the 1994 BTU tax vote debacle. Let's look at the problems Democrats will face with reconciliation:

- Reconciliation cannot be used to make policy changes
- Reconciliation contains several complicated deficit tests
- The House may have to vote on the reconciliation bill twice—it only takes 51 senators to amend a reconciliation bill

### **3) Senators Voting No Put House Democrats In A Difficult Position**

With 59 Senate Democrats and Independents, up to nine Democratic Senators can vote against the bill on passage or on any given amendment (with Vice President Biden breaking any ties). But at one time or another, as many as twelve Senate Democrats have expressed concerns about using reconciliation to facilitate enacting a health care overhaul.

Those twelve Senate Democrats represent nine states. At a minimum, the Senators who vote NO on final passage of reconciliation will be putting House Democrats from their states who may have already voted YES in a difficult position—House Democrats like these:

Congressman Marion Berry (AR)  
Congressman Rick Boucher (VA)  
Congressman Russ Carnahan (MO)  
Congressman Gerry Connolly (VA)  
Congressman Joe Donnelly (IN)  
Congressman Brad Ellsworth (IN)  
Congressman Baron Hill (IN)  
Congressman Steve Kagen (WI)

Congressman Charlie Melancon (LA)  
Congressman Alan Mollohan (WV)  
Congressman Glenn Nye (VA)  
Congressman Tom Perriello (VA)  
Congressman Nick Rahall (WV)  
Congressman Mike Ross (AR)  
Congressman Ike Skelton (MO)  
Congressman Vic Snyder (AR)

### **4) A Second “Clean-Up” Bill Is Highly Unlikely**

There is some speculation that the provisions of the Senate bill that could not be fixed using reconciliation might be fixed in a separate bill that would not have reconciliation protection. A third bill, outside of reconciliation, is highly unlikely:

- Most major bills in the Senate have to meet a 60 vote threshold for passage. If the Majority had 60 votes to fix the Senate-passed bill, then there would be no need for them to try to use reconciliation. There has been some public discussion about a third bill (not reconciliation) to address the abortion issue. It should be noted that when language similar to the “Stupak language” was offered by Senator Ben Nelson (D-NE), the amendment only received 45 votes.
- Controversial bills cannot be done quickly in the Senate. Even routine bills can take several days because the Senate generally allows for amendment. After spending all of December and a week or two on a reconciliation bill, does anyone believe that Senator Reid would be willing to spend time on a third health care bill?

## 5) So What Will Happen?

House Democrats who vote for the Senate health care overhaul can be certain of one thing if it passes—it will become law over the objections of the American people. And they will spend the rest of the year explaining that vote, whether or not the Senate passes a reconciliation bill to “fix” it.

With that in mind, we believe House passage of the Senate’s health care bill will ultimately be decided by the 37 remaining House Democrats who voted NO to a government take-over last November, and the following 21 House Democrats who originally voted YES, but may now be on the fence:

Congressman Michael Arcuri (NY)  
Congressman Marion Berry (AR)  
Congressman Tim Bishop (NY)  
Congressman Dennis Cardoza (CA)  
Congressman Chris Carney (PA)  
Congressman Jim Costa (CA)  
Congressman Joe Donnelly (IN)  
Congressman Steve Driehaus (OH)  
Congressman Brad Ellsworth (IN)  
Congressman Gabrielle Giffords (AZ)  
Congressman Baron Hill (IN)

Congressman Paul Hodes (NH)  
Congressman Dan Maffei (NY)  
Congressman Harry Mitchell (AZ)  
Congressman Bill Owens (NY)  
Congressman Earl Pomeroy (ND)  
Congressman Mark Schauer (MI)  
Congressman Kurt Schrader (OR)  
Congressman Zach Space (OH)  
Congressman Dina Titus (NV)  
Congressman Charlie Wilson (OH)